

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

PHILLIP BAILEY

Plaintiff,

v.

**AMICA MUTUAL INSURANCE
COMPANY**

Defendant.

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CIVIL ACTION NO.:_____

JURY TRIAL DEMANDED

DEFENDANT’S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Pursuant to Title 28 U.S.C. §§ 1332, 1441(a) and (e), and 1446, Defendant, Amica Mutual Insurance Company, (“Amica” or “Defendant”), files this, its Notice of Removal to the United States District Court for the Southern District of Texas, Houston Division, on the basis of diversity of citizenship and amount in controversy, and respectfully shows the following:

**I.
FACTUAL BACKGROUND**

1. On August 29, 2019, an action was commenced by Plaintiff Phillip Bailey in the 113th Judicial District Court of Harris County, Texas styled Philip Bailey v. Amica Mutual Insurance Company, Cause No. 2019-61475. *See Exhibit 4.*

2. On September 18, 2019, process papers were served on Amica Mutual Insurance Company. *See Exhibit 5.*

3. Defendant Amica filed its Original Answer in the 113th Judicial District Court of Harris County Texas, on October 14, 2019. *See Exhibit 6.*

4. Defendant Amica filed its First Amended Answer and Verified Denial in the 113th Judicial District Court of Harris County Texas, on October 18, 2019. *See* **Exhibit 7**.

5. Defendant files this notice of removal within 30 days of receiving service of Plaintiff's pleadings. See 28 U.S.C. § 1446(b).

6. Attached hereto are copies of the following documents:

- **Exhibit 1:** Index of Documents Filed
- **Exhibit 2:** Civil Cover Sheet;
- **Exhibit 3:** The State Court's Docket Sheet
- **Exhibit 4:** Plaintiff's Original Petition and Request for Disclosure;
- **Exhibit 5:** Citation and Return of Service for Amica Mutual Insurance Company;
- **Exhibit 6:** Original Answer of Defendant Amica Mutual Insurance Company;
- **Exhibit 7:** First Amended Answer and Verified Denial of Amica Mutual Insurance Company;
- **Exhibit 8:** List of Parties and Counsel; and
- **Exhibit 9:** Defendant Amica Mutual Insurance Company's Corporate Disclosure Statement

II. BASIS FOR REMOVAL

7. Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

8. Upon information and belief, Plaintiff Phillip Bailey is (at the time the lawsuit was filed) and continues to be a citizen of Texas. *See Exhibit 4* at ¶2.

9. At the time of the commencement of the action, Defendant was (and remains) a Rhode Island Corporation with its primary place of business in Lincoln, Rhode Island. Therefore, Defendant is a citizen of Rhode Island. Defendant is not a citizen of Texas.

10. Complete diversity exists between Plaintiff and Defendant.

11. Plaintiff's Original Petition states that "Plaintiff seeks monetary relief of over \$1,000,000." *See Exhibit 4* at ¶10. This admission clearly demonstrates that the amount in controversy in this case exceeds the jurisdictional requirement.

III. **THE REMOVAL IS PROCEDURALLY CORRECT**

12. Amica first received notice of this lawsuit on September 18, 2019, when Amica was served with Plaintiff's Original Petition. *See Exhibit 4*. Thus, Amica is filing this Notice within the 30-day period required by 28 U.S.C. § 1445(b).

13. Venue is proper in this District and Division under 28 U.S.C. § 1446(a) because i) this District and Division include the county in which the state action has been pending, and ii) a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this District and Division. *See Exhibit 4* at ¶5.

14. Pursuant to 28 U.S.C. § 1446 (a), all pleadings, process, order, and all other filings in the state court action are attached to this Notice.

15. Promptly after Amica files this Notice of Removal, written notice of the filing will be given to Plaintiff pursuant to 28 U.S.C. § 1446(d).

16. Promptly after Amica files this Notice of Removal, a true and correct copy of the same will be filed with the Clerk of the Harris County District Court pursuant to 28 U.S.C. § 1446(d).

**IV.
CONCLUSION**

17. Based upon the foregoing, the exhibits submitted in support of this removal, and other documents filed contemporaneously with this Notice of Removal, Defendant, Amica Mutual Insurance Company, hereby removes this case to this Court.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: 

ANDREW J. MCCLUGGAGE (Atty-in-Charge)

Southern District Bar No.

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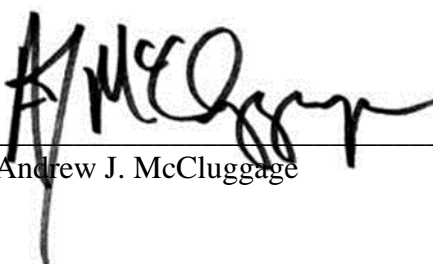
snaranjopadron@thompsoncoe.com

**ATTORNEYS FOR DEFENDANT AMICA
MUTUAL INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 18, 2019, a true and correct copy of the foregoing instrument was delivered to all known counsel of record in accordance with the Federal Rules of Civil Procedure, and any applicable Local Rules, as follows:

W. Mark Lanier
Lawrence P. Wilson
The Lanier Law Firm, P.C.
6810 FM 1960 West
Houston, Texas 77069
(713) 659-5200; Fax (713) 659-2204
Larry.wilson@lanierlawfirm.com

A handwritten signature in black ink, appearing to read "A. McCluggage", is written over a horizontal line. The signature is stylized and cursive.

Andrew J. McCluggage